

SENATE JOURNAL

OF THE

IDAHO LEGISLATURE

SECOND REGULAR SESSION
SIXTY-FIRST LEGISLATURE

FIFTY-NINTH LEGISLATIVE DAY
WEDNESDAY, MARCH 7, 2012

Senate Chamber

President Little called the Senate to order at 11 a.m.

Roll call showed all members present except Senator Malepeai, absent and formally excused by the Chair; and President Pro Tempore Hill and Senators Bair, Bilyeu, Brackett, Broadsword, Cameron, Heider, Keough, LeFavour, Mortimer, and Toryanski, absent and excused.

Prayer was offered by Chaplain Keith Buhler.

The Pledge of Allegiance was led by Alexa Woodland, Page.

The Senate advanced to the Third Order of Business.

Reading and Correction of the Journal

The JUDICIARY AND RULES Committee reports that the Senate Journal of the proceedings of March 6, 2012, was read and approved as corrected.

DARRINGTON, Chairman

There being no objection, the report was adopted and ordered filed in the office of the Secretary of the Senate.

President Pro Tempore Hill was recorded present at this order of business.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifth Order of Business.

Petitions, Resolutions, and Memorials

SR 104 BY STATE AFFAIRS COMMITTEE A SENATE RESOLUTION

RECOGNIZING THE SUCCESS AND ACHIEVEMENT OF ARIANE DRAKE OF POCATELLO AND EMILY KLADAR OF HAYDEN LAKE, RECIPIENTS OF PRUDENTIAL SPIRIT OF COMMUNITY AWARDS.

Be It Resolved by the Senate of the State of Idaho:

WHEREAS, the Senate recognizes the success and achievement of Ariane Drake, of Pocatello, and Emily Kladar, of Hayden Lake, who have achieved national recognition of exemplary volunteer service by receiving 2012 Prudential Spirit of Community Awards; and

WHEREAS, this prestigious award, presented by Prudential Financial in partnership with the National Association of

Secondary School Principals, honors young volunteers across America who have demonstrated an extraordinary commitment to serving their communities; and

WHEREAS, Ariane Drake, a student at Century High School in Pocatello, earned this award by giving generously of her time and energy to raise nearly \$30,000 to buy land and construct a new building for a school in Uganda and to pay for students' tuition fees; and

WHEREAS, Emily Kladar, a sixth-grader at Canfield Middle School in Coeur d'Alene, created a nonprofit charity with her sister that has raised more than \$60,000 to benefit the families of children needing heart surgery by selling dish towels with their designed logo that reads: "Kids Helping Kids Fix Broken Hearts."

WHEREAS, the success of the State of Idaho, the strength of our communities, and the overall vitality of American society depend, in great measure, upon the dedication of young people like Ariane Drake and Emily Kladar who use their considerable talents and resources to serve others.

NOW, THEREFORE, BE IT RESOLVED by the members of the Senate, assembled in the Second Regular Session of the Sixty-first Idaho Legislature, that we hereby congratulate and honor Ariane Drake and Emily Kladar as recipients of Prudential Spirit of Community Awards, recognize their outstanding record of volunteer service, peer leadership and community spirit and extend best wishes for their continued success and achievement.

[SR 104](#) was introduced, read at length, and referred to the Judiciary and Rules Committee for printing.

The Senate advanced to the Sixth Order of Business.

Reports of Standing Committees

March 7, 2012

The JUDICIARY AND RULES Committee reports that [S 1380](#), [S 1381](#), and [S 1382](#) have been correctly printed.

DARRINGTON, Chairman

[S 1380](#) was referred to the Judiciary and Rules Committee.

[S 1381](#) and [S 1382](#) were referred to the Finance Committee.

March 6, 2012

The AGRICULTURAL AFFAIRS Committee reports out [H 512](#), as amended, [H 513](#), and [HCR 37](#) with the recommendation that they do pass.

SIDDOWAY, Chairman

[H 512](#), as amended, and [H 513](#) were filed for second reading.

[HCR 37](#) was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

March 6, 2012

The FINANCE Committee reports out [H 615](#), [H 616](#), [H 617](#), [H 618](#), [S 1375](#), [S 1376](#), and [S 1377](#) with the recommendation that they do pass.

CAMERON, Chairman

[H 615](#), [H 616](#), [H 617](#), [H 618](#), [S 1375](#), [S 1376](#), and [S 1377](#) were filed for second reading.

March 6, 2012

The TRANSPORTATION Committee reports it has had under consideration the Gubernatorial appointment listed below and the Committee recommends that said appointment be confirmed by the Senate:

Jim Kempton to the Idaho Transportation Board, term to expire January 31, 2018.

HAMMOND, Chairman

The Gubernatorial appointment was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

March 6, 2012

The TRANSPORTATION Committee reports out [H 540](#), as amended, with the recommendation that it do pass.

HAMMOND, Chairman

[H 540](#), as amended, was filed for second reading.

March 6, 2012

The JUDICIARY AND RULES Committee reports out [S 1339](#) with the recommendation that it be referred to the Fourteenth Order of Business for amendment.

DARRINGTON, Chairman

There being no objection, [S 1339](#) was referred to the Fourteenth Order of Business, General Calendar.

March 7, 2012

The STATE AFFAIRS Committee reports out [H 516](#), [S 1330](#), [S 1366](#), and [HCR 36](#) with the recommendation that they do pass.

MCKENZIE, Chairman

[H 516](#), [S 1330](#), and [S 1366](#) were filed for second reading.

[HCR 36](#) was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Ninth Order of Business.

Messages from the House

March 6, 2012

Dear Mr. President:

I transmit herewith [H 621](#), [H 622](#), [H 518](#), [H 572](#), [H 582](#), [H 591](#), [H 593](#), [H 604](#), and [H 496](#), which have passed the House.

ALEXANDER, Chief Clerk

[H 621](#), [H 622](#), [H 518](#), [H 572](#), [H 582](#), [H 591](#), [H 593](#), [H 604](#), and [H 496](#) were filed for first reading.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Eleventh Order of Business.

Introduction, First Reading, and Reference of Bills, House Petitions, Resolutions, and Memorials

S 1383

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO THE MAINTENANCE AND REPAIR OF DITCHES, CANALS AND CONDUITS; AMENDING SECTION 42-1203, IDAHO CODE, TO PROVIDE THAT SPECIFIED DUTIES RELATING TO DITCHES, CANALS AND CONDUITS REQUIRE REASONABLE CARE ONLY AND DO NOT IMPOSE STRICT LIABILITY OR ENLARGE LIABILITY OF OWNERS AND TO PROVIDE THAT OWNERS SHALL NOT BE LIABLE FOR SPECIFIED DAMAGES OR INJURIES; AND AMENDING SECTION 42-1204, IDAHO CODE, TO PROVIDE THAT SPECIFIED DUTIES RELATING TO DITCHES, CANALS, WORKS AND AQUEDUCTS REQUIRE REASONABLE CARE ONLY AND DO NOT IMPOSE STRICT LIABILITY OR ENLARGE LIABILITY OF OWNERS, TO PROVIDE THAT OWNERS AND CONSTRUCTORS SHALL NOT BE LIABLE FOR SPECIFIED DAMAGES OR INJURIES AND TO PROVIDE THAT SPECIFIED LAW SHALL NOT BE CONSTRUED TO IMPAIR ANY DEFENSE THAT AN OWNER OR CONSTRUCTOR OF A DITCH, CANAL, WORKS OR OTHER AQUEDUCT MAY ASSERT IN A CIVIL ACTION.

[S 1383](#) was introduced, read the first time at length, and referred to the Judiciary and Rules Committee for printing.

Senator Heider was recorded present at this order of business.

[H 621](#) and [H 622](#), by Appropriations Committee, were introduced, read the first time at length, and referred to the Finance Committee.

[H 518](#) and [H 591](#), by Revenue and Taxation Committee, were introduced, read the first time at length, and referred to the State Affairs Committee.

[H 572](#), by State Affairs Committee, was introduced, read the first time at length, and referred to the State Affairs Committee.

[H 582](#) and [H 593](#), by Revenue and Taxation Committee, were introduced, read the first time at length, and referred to the Local Government and Taxation Committee.

[H 604](#), by Education Committee, was introduced, read the first time at length, and referred to the Education Committee.

[H 496](#), by Resources and Conservation Committee, was introduced, read the first time at length, and referred to the Resources and Environment Committee.

The Senate advanced to the Twelfth Order of Business.

Second Reading of Bills

Senator Brackett was recorded present at this order of business.

On request by Senator Tippets, granted by unanimous consent, [H 457](#) was referred to the Fourteenth Order of Business, General Calendar.

Senators Bair, Mortimer, Bilyeu, and Keough were recorded present at this order of business.

[H 600](#), [H 601](#), and [H 602](#), by Appropriations Committee, were read the second time at length and filed for third reading.

[H 459](#), [H 461](#), [H 525](#), and [H 543](#), by Resources and Conservation Committee, were read the second time at length and filed for third reading.

[S 1271](#) and [S 1282](#), by Resources and Environment Committee, were read the second time at length and filed for third reading.

[H 403](#), by Judiciary, Rules, and Administration Committee, was read the second time at length and filed for third reading.

[H 481](#) and [H 556](#), by Education Committee, were read the second time at length and filed for third reading.

On request by Senator Davis, granted by unanimous consent, the Senate returned to the Tenth Order of Business.

Motions and Resolutions

On request by Senator Davis, granted by unanimous consent, [SCR 127](#), [SCR 128](#), and [SCR 129](#) retained their place on the calendar for Thursday, March 8, 2012.

Senators Broadsword, Cameron, and LeFavour were recorded present at this order of business.

The President announced that [SCR 124](#) was before the Senate for final consideration, the question being, "Shall the resolution be adopted?"

On motion by Senator Goedde, seconded by Senator Stennett, [SCR 124](#) was adopted by voice vote, title was approved, and the resolution ordered transmitted to the House.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Thirteenth Order of Business.

Third Reading of Bills

On request by Senator Davis, granted by unanimous consent, [S 1321](#), as amended, retained its place on the Third Reading Calendar for one legislative day.

On request by Senator Davis, granted by unanimous consent, [S 1336](#), as amended, retained its place on the Third Reading Calendar for one legislative day.

[S 1363](#) was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Lodge arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES—Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Corder, Darrington, Davis, Fulcher, Goedde, Hammond, Heider, Hill, Johnson, Keough, LeFavour, Lodge, McKague, Mortimer, Nuxoll, Pearce, Rice, Schmidt, Siddoway, Smyser, Stennett, Tippetts, Toryanski, Vick, Werk, Winder. Total - 33.

NAYS—None.

Absent and excused—Malepeai, McKenzie. Total - 2.

Total - 35.

Whereupon the President declared [S 1363](#) passed, title was approved, and the bill ordered transmitted to the House.

[S 1365](#) was read the third time at length, section by section, and placed before the Senate for final consideration. President Pro Tempore Hill arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES—Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Corder, Darrington, Davis, Fulcher, Goedde, Hammond, Heider, Hill, Johnson, Keough, LeFavour, Lodge, McKague, Mortimer, Nuxoll, Pearce, Rice, Schmidt, Siddoway, Smyser, Stennett, Tippetts, Toryanski, Vick, Werk, Winder. Total - 33.

NAYS—None.

Absent and excused—Malepeai, McKenzie. Total - 2.

Total - 35.

Whereupon the President declared [S 1365](#) passed, title was approved, and the bill ordered transmitted to the House.

[S 1359](#) was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Keough arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES—Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Corder, Darrington, Davis, Fulcher, Goedde, Hammond, Heider, Hill, Johnson, Keough, LeFavour, Lodge, McKague, Mortimer, Nuxoll, Pearce, Rice, Schmidt, Siddoway, Smyser, Stennett, Tippetts, Toryanski, Vick, Werk, Winder. Total - 33.

NAYS—None.

Absent and excused—Malepeai, McKenzie. Total - 2.

Total - 35.

Whereupon the President declared [S 1359](#) passed, title was approved, and the bill ordered transmitted to the House.

On request by Senator Mortimer, granted by unanimous consent, [S 1360](#) retained its place on the Third Reading Calendar for one legislative day.

[S 1361](#) was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Brackett arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES—Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Corder, Darrington, Davis, Fulcher, Goedde, Hammond, Heider, Hill, Johnson, Keough, LeFavour, Lodge, McKague, Mortimer, Nuxoll, Pearce, Rice, Schmidt, Siddoway, Smyser, Stennett, Tippetts, Toryanski, Vick, Werk, Winder. Total - 33.

NAYS—None.

Absent and excused—Malepeai, McKenzie. Total - 2.

Total - 35.

Whereupon the President declared [S 1361](#) passed, title was approved, and the bill ordered transmitted to the House.

[S 1367](#) was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Toryanski arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES—Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Corder, Darrington, Davis, Fulcher, Goedde, Hammond, Heider, Hill, Johnson, Keough, LeFavour, Lodge, McKague, Mortimer, Nuxoll, Pearce, Rice, Schmidt, Siddoway, Smyser, Stennett, Tippetts, Toryanski, Vick, Werk, Winder. Total - 33.

NAYS—None.

Absent and excused—Malepeai, McKenzie. Total - 2.

Total - 35.

Whereupon the President declared [S 1367](#) passed, title was approved, and the bill ordered transmitted to the House.

[S 1368](#) was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Toryanski arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES—Andreason, Bair, Bilyeu, Bock, Brackett, Broadsword, Cameron, Corder, Darrington, Davis, Fulcher, Goedde, Hammond, Heider, Hill, Keough, LeFavour, Lodge, McKague, Mortimer, Nuxoll, Pearce, Rice, Schmidt, Siddoway, Smyser, Stennett, Tippetts, Toryanski, Vick, Werk, Winder. Total - 32.

NAYS—None.

Absent and excused—Johnson, Malepeai, McKenzie. Total - 3.

Total - 35.

Whereupon the President declared [S 1368](#) passed, title was approved, and the bill ordered transmitted to the House.

On request by Senator Davis, granted by unanimous consent, all Senate bills were placed at the head of the Third Reading Calendar, followed by House bills.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifteenth Order of Business.

Miscellaneous Business

On motion by Senator Davis, seconded by Senator Bock, by voice vote, the Senate adjourned at 12 noon until the hour of 10 a.m., Thursday, March 8, 2012.

BRAD LITTLE, President

Attest: JENNIFER NOVAK, Secretary